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AMENDMENTS TO LB 90

(Amendments to E & R amendments, AM7099)

1           1. Insert the following new sections:

2           "Sec. 18. Section 66-1345, Revised Statutes Supplement,  
3   2004, is amended to read:

4           66-1345. (1) There is hereby created the Ethanol  
5   Production Incentive Cash Fund which shall be used by the board to  
6   pay the credits created in section 66-1344 to the extent provided  
7   in this section. Any money in the fund available for investment  
8   shall be invested by the state investment officer pursuant to the  
9   Nebraska Capital Expansion Act and the Nebraska State Funds  
10   Investment Act. The State Treasurer shall transfer to the Ethanol  
11   Production Incentive Cash Fund such money as shall be (a)  
12   appropriated to the Ethanol Production Incentive Cash Fund by the  
13   Legislature, (b) given as gifts, bequests, grants, or other  
14   contributions to the Ethanol Production Incentive Cash Fund from  
15   public or private sources, (c) made available due to failure to  
16   fulfill conditional requirements pursuant to investment agreements  
17   entered into prior to April 30, 1992, (d) received as return on  
18   investment of the Ethanol Authority and Development Cash Fund, (e)  
19   credited to the Ethanol Production Incentive Cash Fund from the  
20   excise taxes imposed by section 66-1345.01, and (f) credited to the  
21   Ethanol Production Incentive Cash Fund pursuant to sections 66-489,  
22   66-4,134, 66-726, 66-1345.04, and 66-1519.

23           (2) The Department of Revenue shall, at the end of each

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1 calendar month, notify the State Treasurer of the amount of motor  
2 fuel tax that was not collected in the preceding calendar month due  
3 to the credits provided in section 66-1344. The State Treasurer  
4 shall transfer from the Ethanol Production Incentive Cash Fund to  
5 the Highway Trust Fund an amount equal to such credits less the  
6 following amounts:

7 (a) For 1993, 1994, and 1995, the amount generated during  
8 the calendar quarter by a one-cent tax on motor fuel pursuant to  
9 sections 66-489 and 66-6,107;

10 (b) For 1996, the amount generated during the calendar  
11 quarter by a three-quarters-cent tax on motor fuel pursuant to such  
12 sections;

13 (c) For 1997, the amount generated during the calendar  
14 quarter by a one-half-cent tax on motor fuel pursuant to such  
15 sections; and

16 (d) For 1998 and each year thereafter, no reduction.

17 For 1993 through 1997, if the amount generated pursuant  
18 to subdivisions (a), (b), and (c) of this subsection and the amount  
19 transferred pursuant to subsection (1) of this section are not  
20 sufficient to fund the credits provided in section 66-1344, then  
21 the credits shall be funded through the Ethanol Production  
22 Incentive Cash Fund but shall not be funded through either the  
23 Highway Cash Fund or the Highway Trust Fund. For 1998 and each  
24 year thereafter, the credits provided in such section shall be  
25 funded through the Ethanol Production Incentive Cash Fund but shall  
26 not be funded through either the Highway Cash Fund or the Highway  
27 Trust Fund.

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1                   If, during any month, the amount of money in the Ethanol  
2   Production Incentive Cash Fund is not sufficient to reimburse the  
3   Highway Trust Fund for credits earned pursuant to section 66-1344,  
4   the Department of Revenue shall suspend the transfer of credits by  
5   ethanol producers until such time as additional funds are available  
6   in the Ethanol Production Incentive Cash Fund for transfer to the  
7   Highway Trust Fund. Thereafter, the Department of Revenue shall,  
8   at the end of each month, allow transfer of accumulated credits  
9   earned by each ethanol producer on a prorated basis derived by  
10   dividing the amount in the fund by the aggregate amount of  
11   accumulated credits earned by all ethanol producers.

12                   (3) The State Treasurer shall transfer from the Ethanol  
13   Production Incentive Cash Fund to the Management Services Expense  
14   Revolving Fund the amount reported under subsection (4) of section  
15   66-1345.02 for each calendar month of the fiscal year as provided  
16   in such subsection.

17                   (4) On December 31, 2012, the State Treasurer shall  
18   transfer one-half of the unexpended and unobligated funds from the  
19   Ethanol Production Incentive Cash Fund to the Nebraska Corn  
20   Development, Utilization, and Marketing Fund and Grain Sorghum  
21   Development, Utilization, and Marketing Fund in the same proportion  
22   as funds were collected pursuant to section 66-1345.01 from corn  
23   and grain sorghum. The Department of Agriculture shall assist the  
24   State Treasurer in determining the amounts to be transferred to the  
25   funds. The remaining one-half of the unexpended and unobligated  
26   funds shall be transferred to the General Fund.

27                   (5) ~~Whenever the unobligated balance in the Ethanol~~

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1   ~~Production Incentive Cash Fund exceeds twenty million dollars, the~~  
2   ~~Department of Revenue shall notify the Department of Agriculture at~~  
3   ~~which time the Department of Agriculture shall suspend collection~~  
4   ~~of the excise tax levied pursuant to section 66-1345.01. If, after~~  
5   ~~suspension of the collection of such excise tax, the balance of the~~  
6   ~~fund falls below ten million dollars, the Department of Revenue~~  
7   ~~shall notify the Department of Agriculture which shall resume~~  
8   ~~collection of the excise tax~~ Whenever the balance in the Ethanol  
9   Production Incentive Cash Fund is projected to fall below one  
10   million dollars in the next fiscal year, the Department of Revenue  
11   shall notify the State Treasurer at which time the State Treasurer  
12   shall transfer six million dollars from the Cash Reserve Fund to  
13   the Ethanol Production Incentive Cash Fund no later than the  
14   seventh day of the new fiscal year in which the balance is  
15   projected to fall below one million dollars. Such transfer shall  
16   occur in each year the balance is projected to fall below one  
17   million dollars. The transfer required pursuant to this section  
18   shall be in addition to the General Fund transfers authorized in  
19   section 66-1345.04.

20           (6) On or before December 1, 2003, and each December 1  
21   thereafter, the Department of Revenue and the Nebraska Ethanol  
22   Board shall jointly submit a report to the Legislature which shall  
23   project the anticipated revenue and expenditures from the Ethanol  
24   Production Incentive Cash Fund through the termination of the  
25   ethanol production incentive programs pursuant to section 66-1344.  
26   The initial report shall include a projection of the amount of  
27   ethanol production for which the Department of Revenue has entered

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1 agreements to provide ethanol production credits pursuant to  
2 section 66-1344.01 and any additional ethanol production which the  
3 Department of Revenue and the Nebraska Ethanol Board reasonably  
4 anticipate may qualify for credits pursuant to section 66-1344.

5 Sec. 21. Section 84-612, Revised Statutes Supplement,  
6 2004, is amended to read:

7 84-612. (1) There is hereby created within the state  
8 treasury a fund known as the Cash Reserve Fund which shall be under  
9 the direction of the State Treasurer. The fund shall only be used  
10 pursuant to this section.

11 (2) The State Treasurer shall transfer funds from the  
12 Cash Reserve Fund to the General Fund upon certification by the  
13 Director of Administrative Services that the current cash balance  
14 in the General Fund is inadequate to meet current obligations.  
15 Such certification shall include the dollar amount to be  
16 transferred. Any transfers made pursuant to this subsection shall  
17 be reversed upon notification by the Director of Administrative  
18 Services that sufficient funds are available.

19 (3) On July 23, 2001, the State Treasurer shall transfer  
20 three hundred seventy thousand dollars from the Cash Reserve Fund  
21 to the Municipal Natural Gas Regulation Revolving Loan Fund for  
22 purposes of loaning to Nebraska communities that seek to review  
23 natural gas rates. Any transfer made pursuant to this subsection  
24 shall be reversed upon notification by the Director of Policy  
25 Research that a sufficient court judgment has been obtained. Upon  
26 reversal, any money in excess of three hundred seventy thousand  
27 dollars shall be transferred to the Municipal Rate Negotiations

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1 Revolving Loan Fund.

2 (4) On June 15, 2004, the State Treasurer shall transfer  
3 three million dollars from the Cash Reserve Fund to the General  
4 Fund.

5 (5) On June 15, 2005, the State Treasurer shall transfer  
6 twenty-six million dollars from the Cash Reserve Fund to the  
7 General Fund.

8 (6) The State Treasurer, at the direction of the budget  
9 administrator of the budget division of the Department of  
10 Administrative Services, shall transfer such amounts not to exceed  
11 five million seven hundred twenty-seven thousand seven hundred  
12 seven dollars in total from the Cash Reserve Fund to the Nebraska  
13 Capital Construction Fund between July 1, 2003, and June 30, 2007.

14 (7) The State Treasurer, at the direction of the budget  
15 administrator, shall transfer an amount equal to the total amount  
16 transferred pursuant to subsection (6) of this section from the  
17 General Fund to the Cash Reserve Fund on or before June 30, 2008.

18 (8) In addition to receiving transfers from other funds,  
19 the Cash Reserve Fund shall receive federal funds received by the  
20 State of Nebraska for undesignated general government purposes,  
21 federal revenue sharing, or general fiscal relief of the state.

22 (9) The State Treasurer, at the direction of the budget  
23 administrator of the budget division of the Department of  
24 Administrative Services, shall transfer fifty-eight million one  
25 hundred ninety-one thousand eight hundred sixty-two dollars from  
26 the Cash Reserve Fund to the General Fund on or before June 30,  
27 2004. There is included in this subsection a transfer of

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1 fifty-eight million one hundred ninety-one thousand eight hundred  
2 sixty-two dollars of federal payments made to the State of Nebraska  
3 under the Jobs and Growth Tax Relief Reconciliation Act of 2003 to  
4 the General Fund for purposes of providing essential government  
5 services such as health care and education as appropriated from the  
6 General Fund for fiscal year 2003-04 in Laws 2003, LB 407.

7 (10) The State Treasurer shall transfer funds from the  
8 Cash Reserve Fund to the Ethanol Production Incentive Cash Fund as  
9 provided in subsection (5) of section 66-1345."

10 2. On page 22, line 6, strike each occurrence of  
11 "seven-eighths" and insert "one".

12 3. On page 23, line 24, strike "\$2,500,000" and insert  
13 "\$4,000,000"; and in line 26 strike "\$5,500,000" and insert  
14 "\$7,000,000".

15 4. On page 24, line 1, strike "\$2,500,000" and insert  
16 "\$4,000,000"; and in lines 8 and 9 strike "section 66-1345.01" and  
17 insert "sections 66-1345, 66-1345.01, and 84-612".

18 5. Renumber the remaining sections accordingly.